

Harpswell Planning Board Meeting
Minutes of January 15, 2003

Approved 2/19/03
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Attendance: James Henderson-Chairman, John Papacosma-Vice-Chairman, Don Rogers, Dorothy D. Carrier, Howard Nannen, Noel Musson-Planner, Karen O'Connell-Recording Secretary.

The meeting had been advertised in the Times Record, videotaped, broadcast live on Harpswell TV, and recorded. Chairman Henderson called the meeting to order at 6:30 P.M., introduced above members and staff and led the pledge of allegiance. Henderson then reviewed general Board procedures and the agenda for the evening.

Approval of Minutes -

Motion - The minutes of December 18 were approved with two corrections (Motion by Carrier and seconded by Nannen - Carried 5-0)

03-01-01 Holly Chase Allen, Owner Dain Allen, Site Plan Review, Commercial Fishing I, Tax Map 8-20, Lookout Point Road.

Chairman Henderson indicated three Board Members; Rogers, Nannen, and himself had attended a site visit at the Allen property and viewed the site on Monday, January 13, 2003.

Applicant Presentation - Applicant, Holly Chase Allen, explained that she plans to add a mobile food concession trailer (a self contained unit measuring approximately 16x18 feet) to her waterfront site on a part time basis. She noted that she understands the State rules are very strict about this type of concession and as they also have a wet storage permit they also must be careful about what goes into the water. Because of this, Allen indicated everything would be carried out. Allen indicated she had proposed two different locations for the trailer. She indicated this would be an extension of the existing business. She indicated traffic should be no problem as there is ample parking and no traffic signals nearby. Since lobster trucks that come in arrive early in the morning this avoids traffic issues. Allen indicated there would be no extra lighting as this would be a daytime business. Allen indicated there are some existing picnic tables on the site. Henderson confirmed these were already in existence. Allen indicated she felt it might be counter productive to place yellow lines for parking spaces.

Noel Musson provided supplemental information about access and egress and a contract with Blow Brothers for pumping out a portable toilet.

Board Discussion and Questions - Henderson concluded that there was no impact on the water because all was self contained by trucking out. Allen indicated that testing had been done on the well. Musson indicated that this Site Plan Review was different because the unit was mobile rather than a permanent structure. Musson indicated many items of a Site Plan Review do not apply because this is a mobile business. Musson indicated that parking and access were the most pertinent issues. Musson noted that septic is not an issue because of the pump out proposal and a solid waste pick up agreement. Musson indicated that the Town does not have rules specific to such situations. Allen indicated she had put site A for a possible trailer location first because she had considered setbacks but site B makes more sense for her because of other considerations such as existing electrical use avoiding use of a generator.

Nannen asked if the operation was in place last year and Allen indicated that people had purchased product and they had cooked it for them but later learned the State frowned on that. The representatives of the Department of Human Services had indicated the small white building on site could be used and the well tested. Allen indicated this small white building was not sufficient to meet their needs. Nannen asked if they had advertised last year and experienced a good flow of business traffic.

Allen indicated the only advertisement was in the Harpswell Anchor. Nannen asked where the electrical outlet was located on the property and Allen responded it was near the ramp and red

building in the corner. Allen indicated they cooked about 8 to 10 times over the summer as a favor to some people. Papacosma indicated locating at point B might prevent congestion for any fishing business activity. Allen reviewed locations of current structures of the business and added that her husband owns another lot where parking could occur if needed.

Public Comment-

Bill Menz, abutting property owner and owner of the Harpswell Inn asked for clarification of locations of the trailer. He indicated he applauds Allen's desire to open a facility. His guests have commented positively on the current operation. Menz indicated he does have some concerns for neighbors who will have to deal with this most directly. Menz indicated the neighborhood has gotten used to the early fishing operation. He suggested it would be interesting if the Allen's were to use the boat as a base of operations. Nannen asked Menz about his opinion about evening hours of operation. Menz indicated he has weddings that go until 9:00 P.M. and he tries to keep those very rare and be considerate of neighbors. He indicated if the operation went into sunset hours it might disturb neighbors and some guests who enjoy their sunset views.

Allen commented that neighbors Nordwall's and Lafarge's received notices and had opportunity to communicate any concerns.

Karen Tassinari Mendor abutting property owner and owner of Bellevue by the Sea located directly across from the operation indicated she has concerns in regard to the site location. She indicated she would prefer site A as it is tucked out of the way, while site B would impact the pristine beauty of the area. She indicated this would impact her view tremendously. She was also concerned about parking as people will tend to park wherever they can so that she would prefer a chosen parking location with least impact to the beauty of the area. She indicated she does prefer that the operation is a take out to control parking and would hope no extra picnic tables will be added. She would also prefer that the operation would close by 6:00 P.M. Mendor indicated it might be easy for this operation to drift into 9:00 P.M. Mendor indicated it is a commercial Fishing Zone and it is now starting to become a restaurant and she is concerned it could grow further. Mendor indicted it is really terrible when the portable toilet gets cleaned out and does not see how a portable toilet is needed for a take out operation. Mendor indicated she is curious about Commercial Fishing Zone and allowing take out food.

Allen responded that time cards would verify that they did not close last year until 7:00 P.M. She also indicted it was possible for the trailer unit to be placed between the white building and the fuel chamber (between 1 and 7 on her plan and this would not impact view. She noted it is not just her customers who use the portable toilet but kayakers and others who come out to the area. She feels this is better than other alternatives. Allen indicated Commercial Fishing is a comprehensive business including catching, taking care of the product, and selling the product. Rogers indicated the business had been in operation for some time.

Mary Tassinari indicated in 1945 the current site was leased for fishing at that time. Henderson confirmed with Allen the trailer could not become a permanent structure. Allen indicated she might consider purchasing a second unit down the road for traveling. Musson indicated if this were to become a permanent parking place for the unit, it would trigger another Site Plan Review. Musson indicted the ordinances are not as clear on mobile units.

Henderson indicated if there were places where people sat and ate in a habitual way then that would trigger a review. Nannen referred to the Table in the Basic Land Use Ordinances # 15.3 which identifies Commercial Fishing uses allowed and criteria that uses be functionally water dependent and accessory to Commercial Fishing and asked if this applied. Henderson read the definition of "functionally water dependent" and noted retail and wholesale marketing activities were included in this definition. Papacosma indicated if this is purely take out, it would be an allowed use. Papacosma indicated it should be clear that this is not a place to sit and eat.

Dick Moseley, who indicated he has been in the position of health inspector and the reason for

the mobile unit being moved every 8 days is to allow for cleaning. Moseley noted that 18 out of 20 structures in this area are businesses operating for a long time and 15 of the 18 are not Commercial Fishing Businesses. Moseley noted there are no business license records at this time. Moseley indicated the area should be reviewed for a mixed use of business. Moseley indicated Ms Allen had worked very hard on her application and it is in Ms. Allen's best interest to have the least offending location. Moseley indicated there have been other requests to begin businesses in this neighborhood that have been denied and asked that the area be given a review. Henderson indicated that serving food to the public is a home occupation activity that could be permitted in this area.

Board Discussion and Vote - Rogers made a motion to approve the Allen application.

Henderson indicated there may be some conditions to be added and since the motion was not yet seconded these items could be discussed. Henderson indicated because this is a mobile operation and not a permanent structure it could be accepted as not being a permanent use.

Board members discussed with Allen the most acceptable and workable locations of structures including the trailer and portable toilet with Allen noting the portable toilet needs to go on a flat area and should not be near the food preparation area. The location of the trailer unit between structures 1 and 7, on the submitted plan, would be good location. Mendor indicated that this location would be best for views in the area. The Board discussed operating hour limits and limits on tables.

Rogers made a **Motion that the application be approved with the following conditions:**

- 1. The location of the mobile trailer unit is to be located between structures #7 and #1 on the site plan,**
- 2. The hours of operation are to be no later than 7:00 P.M.,**
- 3. No additional seating is to be provided beyond 6 existing picnic tables,**
- 4. A determination has been made that current parking is adequate as is,**
- 5. Any modification, alteration, change, or expansion of this plan would require a Site Plan Review, and**
- 6. The applicant adheres to the State requirement that the mobile unit will not be on the site continuously more than 7 consecutive days (Motion by Rogers seconded by Carrier and passed 5-0)**

Ms. Allen confirmed that there are currently six picnic tables on the property including some on the dock and some behind the traps and that these had been used by staff to have lunch. Nannen asked if there was a need to go through formally all the criteria of the Site Plan and Henderson indicated they could rely on the memo from the Planner who had reviewed the criteria and the Board had reviewed those criteria that were applicable. Rogers noted the plan does not allow the trailer to be there at all times. Papacosma clarified with Allen that she understood this and she noted yes. Allen indicated she is working on her license and may go to other locations. Henderson indicated it needed to be clear that she was limited to 7 consecutive days. Nannen indicated there is no change to the land because of the nature of the business. Allen confirmed she had addressed lighting and there would be no change. She indicated there would be a sign on the cart. She was not certain regarding signs on the road. Musson asked if this should be included as a condition and Henderson indicated it would be a change and would require a new Site Plan Review. Henderson indicated that the standards that are not applicable would be noted on the Notice of Decision.

Change of Meeting Date -

Motion that the Board will make an exception to the usual schedule and hold its April Meeting on Monday, April 14 at 6:30 P.M. (Motion by Henderson and seconded by Rogers and carried 5-0)

Planner Update

Upcoming Workshops - Noel Musson reminded the Board of the Maine Municipal Association Workshop to be held on Thursday, January 30 in Augusta 6:00 p.m. to 8:30 p.m. at Maine Municipal Association Offices. Board Members Carrier, Rogers, and Henderson indicated they hoped to attend. Musson announced another workshop would be held in Saco and Nannen indicated he would attend this one to be held March 4.

Public Hearing Date for Proposed Ordinance Changes - Carrier made a **Motion to hold a public hearing on Land Use Ordinances to be held on February 4 at 7:00 P.M. (Motion by Carrier and seconded by Papacosma- carried 5-0)**

Musson distributed a handout which outlined the ordinance changes to be discussed at the public hearing and provided a brief review to the Board on these items. Musson noted many of these items were technical clarifications.

Henderson asked about the requirement of the Board Chair to sign certain permits issued by the Codes Office and whether this is duplicative or if there is an alternative. Musson agreed to look into this.

Board members discussed considering changes that would allow for some flexibility in certain zones and Musson indicated this could be discussed as a future ordinance change.

Other General Discussion -

Comprehensive Plan Update - Nannen provided an update to Board members in regard to the Town Comprehensive Plan. Nannen indicated one thought has been to consider establishing districts for businesses. He indicated a public forum could be held on this issue. Rogers indicated his concern about congestion in certain areas due to parking and the impact on access by fire trucks. Nannen indicated he hoped to have some type of published document by the time of Town meeting. He indicated the formal plan would be deferred until next year and this would allow more time for public participation and involvement in the plan recommendations.

Adjournment-

Henderson made a Motion to adjourn the meeting at 8:25 P.M. (Motion by Henderson and seconded by Rogers - carried 5-0)

Respectfully Submitted,

Karen O'Connell
Recording Secretary